IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

WP(C).No. 14832 of 2007(N)

PETITIONER:
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1. AJITH THOMAS, S/O.K.G.THOMAS,
KAIMATHURUTH HOUSE, PUTHENVELIKARA.

2. ARUN THOMAS, S/O. K.G. THOMAS,
KAIMATHURUTH HOUSE,
PUTHENVELIKARA.

BY ADV. SRI.A.T.ANILKUMAR

RESPONDENTS:
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1. STATE OF KERALA, REP. BY
REVENUE SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.

2. SALES TAX OFFICER,
2ND CIRCLE, MATTANCHERY.

3. DEPUTY TAHASILDAR (R.R.)
TALUK OFFICE, PARAVOOR.

4. VILLAGE OFFICER,
PUTHENVELIKARA VILLAGE.

BY G.P. SMT. PUSHPALATH, M.K.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 14832 OF 2007

Dated this the 28th day of May, 2007

JUDGMENT

Heard counsel for the petitioners and Government Pleader. Petitioners are challenging recovery proceedings initiated for recovery of arrears of sales tax due from a firm of which petitioners are partners. The case of the petitioners is that other partners are not proceeded against. The impugned RR notice itself shows that another partner, along with petitioners, was proceeded against. Section 21 of the KGST Act authorises recovery of sales tax from partners individually and jointly. In other words, all the partners are jointly and severally liable and petitioners have no right to object recovery against them. However, in fairness, I direct the respondents to proceed against other partners after petitioners deposit fifty per cent of the arrears within one month from now. There will be direction to respondents to serve notice and proceed for recovery against other partners on petitioners furnishing copy of the partnership and details of assets of the other partners, which should be done only after petitioners remit fifty per

cent of the arrears as stated above. If fifty per cent is paid by the petitioners, recovery of the balance from the petitioners will be stayed for two months from the date of payment, within which time respondents will proceed for recovery against other partners and if recovery is made matter will be closed, and if arrears could not be recovered, recovery of the balance amount will also be made from the petitioners as they are liable under Section 21 of the Act. It is for the partners to settle dispute, if any, among them before civil court.

W.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge